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NINTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

REPORT OF THE LATIN AMERICAN AND CARIBBEAN REGIONAL PREPARATORY MEETING FOR THE NINTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

San José, Costa Rica, 7-11 March 1994

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RECOMMENDATIONS

The Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, after extensive discussion of various substantive issues related to the four topics of the provisional agenda of the Ninth Congress (A/CONF.169/PM.1), unanimously adopted the resolution and the declaration of support presented below, recommending their submission to the Commission on Crime Prevention and Control at its third session and, as appropriate, to the Ninth Congress for further consideration and action.

Resolution

The Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Concerned about the increase of crime in the region and the growing difficulties of Member States in responding effectively to crime,

Also concerned about the economic situation in the developing countries of the region and its negative impact on social conditions, a situation which makes crime prevention strategies difficult to implement,

Convinced of the importance of the work of the United Nations in providing a framework for the strengthening of international cooperation,

Recalling General Assembly resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme, which endorsed the recommendations of the Ministerial Meeting on the Establishment of an Effective United Nations Crime Prevention and Criminal Justice Programme, held at Versailles from 21 to 23 November 1991,

Concerned about the delay in the implementation of the measures provided for in that resolution, especially the lack of resources, which has made it impossible to strengthen the institutional capacity of the programme and seriously limits capabilities in the area of planning, delivering and evaluating operational activities and advisory services,

Bearing in mind Economic and Social Council resolutions 1992/24 of 30 July 1992 and 1993/32 of 27 July 1993 on the preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

I. Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

1. Recommends that the Ninth Congress facilitate technical cooperation activities by serving as a forum for the exchange not only of information, but also of specific technical assistance and multilateral cooperation projects;

2. Welcomes the new rules of procedure for the United Nations congresses, which will ensure a focused discussion on priority issues and will allow Member States sufficient time to review draft resolutions in all six working languages of the United Nations;

3. Also welcomes the organization of six workshops designed to promote the exchange of information and experience among crime prevention and criminal justice practitioners and policy makers, and calls upon

Member States to take an active part in the preparations for those workshops with a view to fully reflecting regional concerns in the debates of the Ninth Congress;

4. Commends the inclusion of the issue of corruption in the plenary debates of the Ninth Congress, and recommends that the Congress consider effective ways of coordinating at the international level all efforts to tackle corruption and any other form of malfeasance by public officials, particularly the illegal appropriation of public resources and the embezzlement of funds, including in the context of technical assistance activities;

5. Welcomes the generous offer of the Government of Spain to sponsor an international meeting of experts on this topic;

6. Requests the Secretary-General of the United Nations to appoint a Secretary-General of the Ninth Congress in order to facilitate preparations and to mobilize the fullest possible participation in and attendance at the Congress;

7. Recommends that Member States include, in their delegations to the Ninth Congress, and to successive United Nations congresses on the prevention of crime and the treatment of offenders, members of the legislature, so as to facilitate a rapid inclusion of the conclusions and recommendations of the congresses in domestic legislation.

II. International cooperation for strengthening the rule of law and practical technical assistance, including the promotion of the United Nations crime prevention and criminal justice programme

1. Calls upon Member States to strengthen their international cooperation efforts through the United Nations, in consonance with the principles contained in the Caracas Declaration[1] adopted by the Sixth United Nations Conference on the Prevention of Crime and the Treatment of Offenders, taking in this manner into account the social, economic, political and cultural context of each country;

2. Takes note of the important processes of democratization, strengthening of the rule of law and transparency in the countries of the region, and recommends to the international community the support of such efforts, as a contribution to sustainable development;

3. Emphasizes the importance of the independence of the judiciary as a prerequisite for the maintenance of the rule of law and the protection of human rights;

4. Recommends the development of diagnostic and research capabilities in the area of crime prevention and criminal justice;

5. Also recommends to Member States the development of field research in criminal matters, the study of the functioning of penal systems and the exchange of information obtained, especially in relation to forms of organized crime, narcotic drugs trafficking, administrative corruption and environmental crimes. International data banks could thus be established that would help Member States which wished to do so to conclude bilateral cooperation agreements;

6. Notes with appreciation the efforts made to promote the operational activities being carried out in various countries by the United Nations crime prevention and criminal justice programme, with a view to the improvement of the criminal justice system and the strengthening of the rule of law; but at the same time laments the existing material constraints, which are seriously jeopardizing the success of such efforts;

7. Calls upon Member States, and especially the developed countries, to increase their participation in multilateral activities in this field, for example by contributing to the United Nations Crime Prevention and Criminal Justice Fund, with a view to the implementation of existing and future technical assistance projects;

8. Calls upon international financial institutions and bodies, such as the United Nations Development Programme and the World Bank, to include crime prevention and criminal justice in their technical cooperation and assistance programmes and to strengthen national capabilities in the area of formulation, preparation and execution of technical cooperation projects;

9. Urges the developed countries to step up their cooperation in order to achieve the goals stated in the preceding paragraph, on the understanding that such cooperation will be pluralistic, without conditions and respectful of the cultural identity of the beneficiary countries and of national sovereignty and independence;

10. Requests the Secretary-General to implement, as a matter of urgency, General Assembly resolutions 46/152 of 18 December 1991 and 48/103 of 20 December 1993 and Economic and Social Council resolutions 1992/22 of 30 July 1992 and 1993/34 of 27 July 1994, all concerning crime prevention, by allocating sufficient resources to the programme, so as to enable it to implement its new mandates, particularly as regards responding to requests of Member States for technical assistance, and by upgrading the Crime Prevention and Criminal Justice Branch to a Division, headed by a Director;

11. Strongly recommends the proclaiming of a United Nations crime prevention international week, in order to promote broader public awareness of the problem of crime at the global level.

III. Action against transnational and organized crime

1. Welcomes the World Ministerial Conference on Organized Transnational Crime, to be hosted by the Government of Italy, and urges all Member States to participate in that major event at the highest possible level, with specific proposals and practical cooperative measures;

2. Calls upon all Member States to consider the possibility of enacting appropriate legislation to combat transnational crime at both regional and world levels;

3. Recommends the adoption of an international definition of organized crime, and notes with appreciation the proposals to promote an exchange of views on the subject, with a view to harmonizing existing legislation;

4. Calls upon Member States that so wish, to facilitate transnational criminal investigations by extending legal assistance to each other, with a view to effective international cooperation in the provision of originals or authenticated copies and relevant records, the exchange of evidence, the location and identification of persons, the serving of subpoenas, the examinations of objects and places, the carrying out of inspections and seizures, the obtaining of testimony and other pertinent measures;

5. Recommends the inclusion of the crime of illicit enrichment in criminal codes of countries not yet having done so, in order to overcome evidentiary difficulties inherent in economic criminality and corruption, and recourse to modalities of international criminal law, in recognition of the fact that these phenomena may also be international;

6. Calls upon Member States to study ways of simplifying procedures for the taking of evidence abroad, the waiving of bank secrecy and the exchange of relevant information, together with types of penalties that apply specifically to the assets of the economic criminal;

7. Recommends to Member States the establishment of corps specialized in the investigation of economic and financial crimes in order to make the prevention and monitoring of that category of crime more effective;

8. Stresses the importance of establishing a practicable bilateral and multilateral system of extradition in order to avoid impunity of offences committed fully or partially in different countries, and recommends the use, inter alia, of the United Nations model agreements in this field. The extradition system should observe strictly the penal and due process guarantees of the accused; the procedures should be made more flexible and should respect the sovereignty of States and the guarantees of a fair trial;

9. Invites Member States to participate actively in the preparation of the workshop on extradition and international cooperation;

10. Requests the Secretary-General to assist Member States, upon request, in adjusting their national legislation with a view to making the prosecution and adjudication of transnational crime more effective;

11. Invites the Ninth Congress to discuss the appropriateness of establishing witness-protection programmes by exchanging national experiences in that regard;

12. Welcomes the initiative of the Government of Italy and the International Scientific and Professional Advisory Council in organizing, under the auspices of the Crime Prevention and Criminal Justice Branch, the International Conference on the Prevention and Control of Money Laundering and the Use of the Proceeds of Crime to be held at Courmayeur, Italy, from 17 to 21 June 1994;

13. Also welcomes the workshop on the role of criminal law in the protection of the environment, the purpose of which is to consider what measures could be adopted at the international level to penalize acts against the environment, and recommends that national criminal codes reflect the concept of hazardous crimes in the area of environmental crime;

14. Invites the Ninth Congress to explore further the scope for improving options for prosecuting transboundary criminal offences against the environment, including illicit trafficking in plant and animal species, and also to consider the possibility of formulating, in appropriate forums, criminal law to protect the environment at both the national and international levels;

15. Urges Member States to rationalize their consumption indices, adjusting them to policies allowing all countries to attain sustainable development;

16. Emphasizes the urgent need to formulate a model law on protection of the environment, establishing a new system of administrative organization which covers all possible sources of environmental pollution, in order to promote full awareness of the problems relating to the protection of the environment.

IV. Criminal justice systems

1. Recommends that Member States, if they have not yet done so, should study the introduction of the oral criminal procedure, with its characteristics of immediacy, transparency and expeditiousness, which will facilitate the juridical exchange of experience. This will make it possible to replace the investigative

written criminal proceeding, with its attendant delays, violation of the rights and fundamental guarantees of the accused and the convicted, and negation of the rights of victims;

2. Also recommends that Member States should study the strengthening of the role of the Office of the Public Prosecutor, to strengthen its autonomy in the context of the guidelines on the role of prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[2] thereby facilitating the international exchange of the teaching staff of schools for training in the respective disciplines;

3. Further recommends that Member States adopt measures to enhance the professional calibre of staff in all sectors concerned with crime prevention and criminal justice in the context of United Nations resolutions, guidelines and standards;

4. Urges Member States to adopt specific and urgent measures to improve substantially the relations between the police and the community, in order to preserve social stability, and recommends to all Member States active cooperation of a technical and financial nature permitting the modernization of the police in accordance with the following criteria:

(a) Advisory services for the formulation and application of a policy of efficiency and effectiveness;

(b) Adequate training of human resources at all levels;

(c) Advisory services on viable and practical programmes in all countries cooperating with the Latin American Institute for the Prevention of Crime and the Treatment of Offenders;

(d) Provision of the necessary material resources for the fulfilment of the police's social role;

5. Invites Member States to consider appropriate ways of reducing the use of detention, with a view to observing the penal and due process guarantees and the rights of detainees;

6. Also invites Member States to increase the use of non-custodial measures in order to improve the administration of justice and to reduce the prison population, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules),[3] thereby also reducing the number of persons in preventive detention;

7. Requests the Secretary-General to assist Member States, upon request, to improve conditions in prisons by, inter alia, allocating the necessary funds for that purpose;

8. Recommends that countries cooperate actively at both the technical and financial levels, with a view to modernizing, streamlining and strengthening the penitentiary system in accordance with the following guidelines:

(a) Advisory services for the elaboration and implementation of a humane and efficient penitentiary policy;

(b) University training of human resources at the managerial level and of technical and administrative staff;

(c) Advisory services relating to viable programmes and practices among the cooperating countries;

(d) Provision of monitoring and security equipment and facilities;

9. Invites the Ninth Congress to pay special attention to the system of transfer of convicted persons to their countries of origin, and to the speed of the corresponding procedures, which would, if agreed to by the offenders, enable them to serve their sentence in circumstances that would promote reintegration into their own society, in accordance with the United Nations Model Treaty on the Transfer of Proceedings in Criminal Matters;[4]

10. Recommends the use of informal mechanisms of social control, such as mediation, reconciliation of the victim and the offender and diversion, in order to implement the principle that criminal law must be used only in the last analysis;

11. Recommends also that the Commission on Crime Prevention and Criminal Justice include in the programme of work in this field cooperation projects with non-governmental organizations that would utilize country experiences in the application of humanitarian and integral approaches, with the aim of superseding the crime and punishment paradigm still prevailing in some criminal justice systems;

12. Recommends further that special attention be paid to the formulation and the application of juridical norms to indigenous ethnic groups, taking into account their culture and idiosyncrasy.

V. Crime prevention strategies, in particular as related to urban areas

1. Recommends the adoption by the Ninth Congress of proposed guidelines for cooperation and technical assistance in the field of urban crime prevention, contained in the annex to Economic and Social Council resolution 1993/27 of 27 July 1993, once they have been considered by the Commission at its third session, and invites Member States, as well as international financial institutions and development agencies, to provide funds for suitable projects;

2. Recognizes that the problem of urban violence and crime in all its forms and manifestations gravely impinges on social life itself, and recommends that Member States establish local, state and regional bodies for crime prevention and criminal justice, with the active participation of the community;

3. Recommends that Member States adopt the necessary measures to guarantee recognition of, and respect for, the human rights of boys, girls and adolescents who have been crime victims, pursuant to the provisions of the United Nations Convention on the Rights of the Child;[5]

4. Urges countries to establish the obligation to compensate injury suffered by a victim, whether psychological, physical or moral, including full compensation for any damage incurred, in accordance with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;[6]

5. Invites Member States to consider the problems arising from migratory flows, particularly with regard to the integration of aliens within various social and cultural contexts and the risks that migrants run of being victims of, or becoming involved in, criminal activities and urges Member States to take such concerns fully into account when drawing up strategies for crime prevention in urban areas;

6. Urges Member States to increase the number of programmes, with strong community and family participation, aimed at preventing boys, girls and adolescents from becoming involved in criminal activities;

7. Requests that Member States undertake the necessary steps aimed at obtaining from the mass media, particularly State-owned ones, an adequate handling of criminal acts, so as to avoid increasing subjective insecurity levels, and the broadcasting of crime prevention messages and campaigns.

Declaration of support for the multilateralization of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders

The Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the important work carried out for almost 20 years by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, in response to the needs expressed by the Latin American and Caribbean countries in the area of crime prevention, criminal justice and human rights,

Bearing in mind the need to coordinate efforts and promote international cooperation in that area to strengthen the programmes of the Institute and intensify and expand its action at the regional, subregional and country levels, especially for the Caribbean countries, which have not so far received sufficient attention from the Institute,

Recalling the resolution of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on support for the Latin American Institute for the Prevention of Crime and the Treatment of Offenders,[2]

Recalling also that the Institute has been functioning since 1975 on the basis of an agreement between the United Nations and the Government of Costa Rica,

Aware that a multilateral agreement between the countries of the region would be a more effective instrument for discharging and refining the current mandate of the Institute and would lead to more effective participation and greater benefit for the Latin American and Caribbean countries in implementing the United Nations crime prevention and criminal justice programme,

Bearing in mind General Assembly resolution 46/152 of 18 December 1991 on the establishment of an effective United Nations crime prevention and criminal justice programme, which endorsed the recommendations of the Ministerial Meeting on the Establishment of an Effective United Nations Crime Prevention and Criminal Justice Programme, held at Versailles from 21 to 23 November 1991, including the recommendation on the strengthening of the important role of the Institute, and the other relevant recommendations of the Commission on Crime Prevention and Criminal Justice and the Economic and Social Council,

Declares that:

1. An effective consultation process aimed at the multilateralization of the Institute, which includes the Governments of the States of the region, should be carried out with a view to facilitating the implementation and refinement of the United Nations programme in those States and helping to strengthen their own efforts and the efforts of the Institute and the international community in the area of crime prevention and criminal justice;

2. The delegations attending the Regional Preparatory Meeting shall bring the contents of this Declaration to the attention of their respective Governments;

3. The Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna should, in consultation with the Governments of the region, prepare a first draft of a multilateral agreement reflecting the following:

(a) The international character of the activities and administration of the Institute;

(b) The fact that the primary objective of the Institute is to promote regional cooperation among Latin American and Caribbean countries in a joint effort to translate into practice, as appropriate, the United Nations crime prevention and criminal justice programme;

(c) The fact that the countries of the region can benefit from the activities of the Institute and at the same time should do all in their power to strengthen their cooperation with that institution, without detriment to the agreements and other cooperative activities that they may enter into among themselves;

(d) The need for funding arrangements to be expressly provided for in the agreement;

(e) The scope and content of the links between the Institute and the United Nations;

4. The Institute should submit a report on its situation to allow consideration of the most appropriate measures to achieve increased and more effective participation of all member States of the region;

5. The Crime Prevention and Criminal Justice Branch should coordinate all tasks at the multilateralization of the Institute.

INTRODUCTION

1. The Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was the fourth of five regional preparatory meetings convened to discuss the substantive topics included in the provisional agenda of the Ninth Congress, to be held in 1995, in accordance with General Assembly resolution 46/152 of 18 December 1991 and Economic and Social Council resolution 1993/32 of 27 July 1993. At its forty-eighth session, the General Assembly adopted resolution 48/103 of 20 December 1993, in which it welcomed resolution 1993/32 of the Council and requested the Secretary-General to undertake all steps necessary to ensure the adequate organization of the Ninth Congress, in accordance with that resolution.

I. ATTENDANCE AND ORGANIZATION OF THE MEETING

A. Date and venue

2. The Meeting was convened and organized by the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna, at the invitation of the Government of Costa Rica, in cooperation with the Latin American Institute for the Prevention of Crime and the Treatment of Offenders. The Meeting was held at the headquarters of the Institute, at San José, from 7 to 11 March 1994.

B. Attendance

3. The Meeting was attended by member States of the Latin America and the Caribbean region by observers from United Nations bodies, specialized agencies and intergovernmental and non-governmental organizations. A list of participants is contained in annex I of the present report.

C. Opening of the Meeting

4. The Acting Director of the Institute said that its activities responded to the needs of the countries of the region, and that its main priorities were facilitating international cooperation and practical technical assistance. Thus, its programmes were directed primarily at assisting developing countries in using the resources provided by Governments of developed countries. Today more than ever, it was indispensable for bodies such as the Institute to make optimal use of scarce resources. The problems to be addressed were, inter alia, juvenile delinquency, environmental protection, the improvement of police and court systems and the protection of victims, including women and children.

5. The Chief of the Crime Prevention and Criminal Justice Branch thanked the Government of Costa Rica and the Institute for their sustained support of the United Nations crime prevention and criminal justice programme, and underlined the importance of the Institute in promoting United Nations activities in the region. The support of Costa Rica had also been significant in promoting the rule of law and democracy.

6. The Minister of Justice of Costa Rica noted that the topics for the Meeting, and later for the Ninth Congress, were closely linked with the social and economic development of the peoples of the region. Criminal justice was an integral component of any social justice endeavour. It was the task of the Meeting, therefore, to examine the achievements and the failures in that area. Together, the participants could better define the policies and the cooperation mechanisms of the region. Cooperation, regional and international, was fundamental, since acting separately could not provide a truly successful approach to the problem.

7. The Minister for Foreign Affairs of Costa Rica said that his country assigned to the administration of justice a crucial role in the development of democracy. Further, the independence of the judiciary was a safeguard of the natural rights of the individual. It seemed evident that the success of crime prevention depended, in the modern world, on the degree of effective international cooperation attained.

8. The President of Costa Rica, Rafael A. Calderón Fournier, stated that his country, as a firm believer in the progressive role of international organizations, welcomed the strengthening of the United Nations, which had a central role to play in the search for better approaches to the control of crime and the treatment of offenders.

9. In that connection, the President pointed out that the current upward spiral of crime was related to the contemporary crisis of values. The crisis started when human beings separated politics, the economy and social life from ethical imperatives. That unavoidably resulted in a divorce between individual and social behaviour, on the one hand, and fundamental values, on the other, damaging in this manner human dignity and even the chances of survival of the species. The only road to integrated and developed societies was through the strengthening of their value systems.

D. Election of officers

10. The Meeting elected the following officers:

Chairman: Elizabeth Odio Benito (Costa Rica)

Vice-Chairmen: Mariano Alberto Ciafardini (Argentina)
Jorge Soruco Quiroga (Bolivia)
Aracely Careaga Hernández (Cuba)

Rapporteur: Alicia Fernanda Quijano Castro (Colombia)

E. Adoption of the agenda

11. The Meeting adopted the following agenda:

1. Opening of the Meeting.

2. Organizational matters.

3. International cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme.

4. Action against national and transnational economic and organized crime and the role of criminal law in the protection of the environment: national experiences and international cooperation.

5. Criminal justice and police systems: management and improvement of police and other law enforcement agencies, prosecution, courts and corrections and the role of lawyers.

6. Crime prevention strategies, in particular as related to crimes in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives.

7. Adoption of the report of the Meeting.

F. List of documents

12. The documents before the Meeting are listed in annex II of the present report.

II. REPORT OF THE DISCUSSION

Topic 1. International cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme

13. The Chief of the Branch introduced topic 1, underlining that the prompt implementation of the recommendations of the Ministerial Meeting held at Versailles had ensured both a larger involvement of the Governments of Member States and a more practical orientation of the programme. In fact, operational activities had become one of the main priorities of the programme, overviewed by the Commission on Crime Prevention and Criminal Justice.

14. The Chief of the Branch further noted that, at a critical moment in the struggle for a better world, the United Nations was facing the challenge of growing criminality, both national and transnational, a challenge which required a higher level of efficiency and professionalism in combating such noxious activities as organized crime, corruption, money-laundering, the uncontrolled growth of urban crime, both juvenile and violent, as well as strengthening the rule of law in the protection of the environment and improving the administration of penal law in all its aspects.

15. A fundamental goal of the programme was also to assist requesting countries in the use and application of the norms and standards of the United Nations in crime prevention and criminal justice. Although it was true that a large number of countries had successfully implemented those norms, there still existed a wide gap between the principles embodied in the norms and the reality to be found around the globe.

16. In connection with international cooperation, some representatives felt that the momentous political changes occurring in some parts of the world and the concomitant end of the cold war could bring about a diversion of technical assistance to societies in the throes of economic transition, to the disadvantage of developing countries. However, since many of those countries possessed neither the capabilities nor the resources to implement effective crime prevention policies, they could hardly be expected to become effective partners in the indispensable network of international cooperation.

17. The growing difficulties in combating increasingly transnational forms of crime were widely recognized by the Meeting. This fact added urgency to the need for strengthened international cooperation, especially technical assistance and the exchange of information in combating such crimes as drug trafficking, organized crime, money-laundering and damage to the environment. The exchange of experience, ideas and proposals to improve national criminal justice systems and crime prevention policies was also essential. Human solidarity demanded, moreover, as an ethical imperative, that the strong of this world should help the poor. In the last analysis, it should be recognized that such assistance was a kind of self-help.

18. Some representatives noted that the deterioration of the economies of the countries of the region seriously affected the well-being of large segments of the population, pushing them into criminal activities, a development reflected in significant increases in the crime rates. Only international cooperation for development could halt such deterioration and help to curb the rapid growth of crime.

19. Some representatives felt that the contemporary forms of international cooperation, especially bilateral assistance, often failed to take into account the specificities and idiosyncrasies of particular cultures. The patterns proposed were often too uniform, ignoring the cultural context of some behaviours. As a result, international cooperation at times took the form of an imposition of the norms of a country upon others.

20. Others, while recognizing the importance of bilateral cooperation and the positive results achieved in some cases, felt that the complexity of the challenge demanded heavier emphasis on a multilateral approach, because a large number of problems involved more than two countries. The two approaches should be seen as complementary rather than mutually exclusive, the aim being to establish as thick a network of cooperation as possible, thereby attaining an optimal result.

21. Some representatives recommended the promotion of multilateral and bilateral technical assistance agreements aimed at modernizing domestic legislation by adapting experiences to the unique characteristics of each country, within the framework of an absolute respect for human rights.

22. It was also recommended that domestic drug abuse prevention activities should be complemented by a vast international effort, particularly on the part of developed countries, aimed at reducing the demand for drugs. Some representatives noted that the setting of fair prices for the products of developing countries would undoubtedly stimulate the production of healthy products and discourage large-scale production of drugs.

23. It was noted that current levels of technical assistance, both bilateral and multilateral, were totally inadequate in view of the magnitude of the crisis affecting developing countries. That crisis was compounded by the burden of foreign indebtedness and by the low prices of the traditional exports of developing economies. Under such circumstances, Governments tended to reduce the allocation of resources to the rehabilitative and human rights aspects of crime prevention, while augmenting repressive policies in response to increased levels of fear and insecurity.

24. It was obvious that without assistance for development there existed no possibility of attaining effective crime prevention. It was therefore imperative to improve the levels and delivery of such assistance. Furthermore, technical assistance should be ruled by the principles of neutrality, universality and non-

conditionality. The improvement and intensification of international cooperation should not result in violations of sovereignty.

25. Training of police and penitentiary personnel was mentioned by some as an effective means of technical assistance. The same could be said of the transfer of technology, which could facilitate the task of crime prevention. In that connection, some representatives felt that the role that the Institute could play was crucial. The experience of the Institute could be put to good use by the countries of the region. However, its full capacity could only be developed by true regionalization, through a multilateral agreement.

26. Some representatives felt that the problems created by transnational crime could be most effectively met by mutual judicial assistance, an arrangement that was already in existence through bilateral treaties. The conclusion of such treaties should be promoted and encouraged.

27. Other representatives, however, felt that, despite the existence of binding international agreements and bilateral treaties, in practice their provisions were rather difficult to implement. In fact, actual assistance was scant, and the process for obtaining it was cumbersome, time-consuming and unreliable. The need to streamline and simplify procedures had been often recognized, but obstacles remained. The theory was good, but the practice left much to be desired.

28. Another form of international cooperation mentioned by participants was extradition. That procedure needed to be reviewed and brought into line with contemporary reality. Many of the existing treaties were obsolete and in need of modernization. Treaties should in many cases be reformulated innovatively, so as to increase the speed and ease with which a request for extradition was granted. Such reformulations should, however, take place in a context of mutual respect and equality. It was crucially important to maintain full respect for the human rights of the accused and under no circumstances to resort to expediency as, for instance, in cases of summary deportation and expulsion.

Topic 2. Action against national and transnational economic and organized crime and the role of criminal law in the protection of the environment: national experiences and international cooperation

29. Many representatives noted that crime not only had grown in volume, as evidenced by its mounting rates in almost all countries, but also had extended beyond State boundaries. Transnational crime often tended, moreover, to be synonymous with organized crime. This transnational dimension increased the difficulties of detection and control, while the organizational aspect had acquired a logistic efficiency never before attained by criminal operations. Transnational organized crime had thus become a serious threat to societies and their citizenry all over the world. Its volume of business was staggering by any standard, vastly exceeding the national budgets of most countries. Such vast sums were, in part, used to infiltrate lawful business concerns, thus undermining the economies of numerous countries, in particular developing ones, in which Governments were rapidly losing effective control over economic policy.

30. The availability of such powerful financial means led, in the opinion of many representatives, to widespread corruption at all private and public levels, making a mockery of justice and objective public administration. Such levels of corruption were destroying the confidence of the public in the impartiality of public officials, both appointed and elected, and was at the root of demoralization. That process represented a grave menace to the institutional order and the rule of law.

31. Additional consequences of corruption identified at the Meeting were the destruction or inversion of values, the disintegration of the family, the loss of self-respect, the reduction of the quality of life, and even the annihilation of all wholesome social structures. Some representatives therefore were in favour of regional

seminars that could serve for the exchange of information and training in the prevention and control of corruption. In response to that suggestion, the representative of the Institute expressed its willingness to play a role in that endeavour, if and when the necessary resources became available.

32. In that connection, the representative of Spain informed the Meeting of his Government's offer to organize and sponsor, in cooperation with the Branch, an interregional meeting of experts to examine the problem of corruption, exchange information and formulate proposals and recommendations that would serve as a discussion guide for the plenary session on corruption to be held during the Ninth Congress. The meeting of experts would be held in Spain during the summer of 1994. The Regional Meeting expressed full support for that proposal.

33. Some representatives who attended the Sixth Regional Seminar on Effective Measures to Combat Drug Offences and Improve the Administration of Criminal Justice, organized by the Institute in cooperation with the Japan International Cooperation Agency and the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, with the participation of 16 Governments of the region, took part in the Meeting with an extensive exchange of views on topic 2.

34. Of particular concern was the observed readiness of organized crime to appropriate for its illicit ends the use of the most sophisticated knowledge and technology. That made the problem even more intractable. Experts in finance, chemistry, law, accounting and computers were recruited by criminal organizations. Such a gamut of resources was rarely available to the law enforcement agencies of developing countries. Thus, large-scale economic crimes, which were almost always the handiwork of organized criminality, could be labelled "crimes of intelligence", thereby distinguishing them from the more common crimes of violence.

35. Some representatives noted that violence was also a common instrument of organized crime, although it was not of the spontaneous sort, but rather planned and systematic. Beatings, assassinations and bombings were ways of extorting silence and compliance. Law enforcement officers, prosecutors, judges, politicians and journalists and their families had often been the victims of such instrumentalized violence. Moreover, links with guerrilla movements had added a new intensity to violent strategies.

36. Many representatives addressed the issues related to money-laundering, the so-called "Achilles' heel" of organized crime. It was noted that numerous countries lacked adequate legislation to tackle the problem effectively. There was a need to criminalize money-laundering. However, it was recognized that, in view of the nature of the international financial system and the widespread use of electronic transfers of vast sums, the chances of rapidly achieving success in that connection were, at present, rather limited.

37. In that respect, several representatives noted that abuse of bank secrecy represented a serious obstacle to the control of money-laundering operations. Bank secrecy often resulted in impunity for offenders. Many delegates felt that bank secrecy should not exist vis-à-vis central banking authorities or in the face of a judicial investigation or a trial. While its legitimate uses could be preserved, bank secrecy should undergo careful revision, and exhaustive regulations should be enacted so as to avoid current abuses.

38. Other representatives felt that there was a need to devise means to deal with illicit enrichment, not all of which resulted from organized criminal activities. In that connection, there was a denunciation of the existence of tax havens and offshore banking facilities which served only to attract capital to the host countries, without any concern for the origin of those funds and in open disregard for the concerns of other States, and of the complicity with organized crime that such ill-conceived policies represented.

39. The Meeting was of the opinion that illicit drug trafficking, one of the main undertakings of transnational organized crime, was particularly deleterious to developing countries. In fact, those countries were the victims of illicit drug demand in developed countries. Coca leaves were an integral part of the

culture of some countries, possessing almost a religious importance for the indigenous populations. Drug use had existed in those cultures for millenniums, and had always been and remained moderate. Traditional cultures had not invented hard drugs, the abuse of which was external to them.

40. Some representatives felt that the source of the drug problem was to be found on the demand side of the phenomenon. Such demand was characteristic of rich and developed countries. If demand in those countries could be brought under control, production would rapidly fall back to traditional levels.

41. It was, moreover, unfair to pressure producing countries into eliminating the production of the plants from which hard drugs were produced by organized crime, without taking into account the highly negative impact that would have on the culture and the economy of indigenous populations.

42. Several representatives thought that it was imperative to tackle illicit drug production through more effective control of the so-called precursors of drug production. Legislation should be enacted creating the obligation for chemical industries to submit to the authorities data on the demand for precursors, particularly when orders were suspiciously high. It was proposed that a data bank on the production of precursors should be created. Further, exchange of information in that respect should constitute an integral part of international cooperation.

43. Some representatives felt that the media sometimes compounded the problem of crime rather than assisting the authorities in finding a solution. The emphasis on violence, both in the news and as entertainment, contributed to excessive fear and feelings of insecurity, increasing the chances of irrational reactions to crime and delinquency, while simultaneously providing models of aggressive behaviour to youth.

44. Other representatives emphasized the need for a code of ethics for the media that could serve as guidelines for self-control. In many cases, it was recognized that research into the impact of the media on crime was rather scant and should therefore be encouraged.

45. It was widely recognized that legislative action to protect the environment was imperative. In most countries, the existing legislation was insufficient to meet the challenge. The right of the citizen to a stable and healthy environment and the obligation of the State to protect the environment should be clearly defined by legislative bodies.

46. It was maintained, however, that penal solutions alone, including imprisonment, were not sufficient. Other possibilities included the revocation of licences and permits and the obligation for the offender, at his own cost, to restore the original situation. Irreversible damage merited the harshest punishment, including heavy fines and loss of liberty.

47. Some delegates felt that, in addition to enacting the relevant legislation, there was an urgent need to create the posts of ombudsman for the environment and special prosecutor to investigate environmental crimes and bring them to trial.

48. It was felt that, although there were limits to the kinds of development to be obtained, environmental protection and development were not incompatible in principle. Sustainable development, however, was only possible if environmental factors were fully taken into account.

49. It was noted that organized crime was increasingly infiltrating the business of disposal of nuclear and other toxic wastes. It was in the nature of organized criminal operations that such disposal was carried out without the slightest concern for the environment. Such ecological criminality often occurred in international waters, or in the territory of developing countries, the authorities of which either had been bribed by criminals or were simply unaware of the deleterious effect of these wastes on the health and well-being of their peoples.

50. The Meeting also recognized the need to provide effective protection for consumers, particularly in developing countries.

Topic 3. Criminal justice and police systems: management and improvement of police and other law enforcement agencies, prosecution, courts and corrections and the role of lawyers

51. The Minister of Justice of Argentina presented a comprehensive overview of the process of judicial penal reform in Argentina. After more than 100 years of inquisitorial written penal procedures, Argentina had enacted, in September 1992, a law which introduced the oral procedure with its principles of immediacy, transparency and celerity. Although, in the province of Córdoba, the oral procedure had existed for more than 50 years already, it was the first time that the reform had been extended to the federal level. The Minister outlined the importance of political will in carrying out a process of substantial reform whose benefits were now felt all over the country.

52. The process of reform involved both normative and factual components, including the introduction of legislative measures to incorporate the oral penal process, the appointment of more than 1,000 judges at the federal level and the opening of new buildings to accommodate the facilities required by the oral penal procedure. The Minister also outlined the new measures providing alternatives to imprisonment, new normative guidelines for prosecutors and the introduction of the Ombudsman into the penitentiary system, a step which would improve the situation of prisoners.

53. Argentina was cooperating with many countries of the region in agreements of reciprocal support to achieve much-needed reforms. It had also signed a memorandum of understanding with the Branch to facilitate the exchange of experiences.

54. Many representatives informed the Meeting of the reforms of the criminal justice system which had been introduced in recent years in their countries. The pressing need for those reforms was generally acknowledged. Innovations were required in all areas covered by the topic, in order to adjust the components of the system to contemporary realities and to bring them into line with the relevant United Nations standards and norms.

55. The Meeting also agreed that successful criminal justice management depended on proper human resources development and the improvement of the skills of criminal justice personnel. The smooth functioning of complex legal infrastructures had to be ensured. A reliable administration of justice was paramount for a proper response to crime and for strengthening the rule of law.

56. Some representatives stated that it was crucial to expedite legal proceedings, and that justifications should be provided when unreasonable delays occurred. Some delegations felt that a reform of penal procedures could help to speed up the legal process. Oral proceedings appeared to be a positive factor as demonstrated by the experience of some countries.

57. Many representatives emphasized the need to reduce preventive detention. The number of untried inmates was, in some countries, excessively high. In the opinion of some representatives, a mandatory time-limit for preventive detention should be applied. Any extensions beyond it should be periodically justified before a judge. A limit to such extensions should also be set.

58. The Meeting favoured alternatives to imprisonment. The introduction of fines for minor offences was a step in that direction. Community service for other offences was a second such step. Some representatives reported on the success of the reforms in their countries. Imprisonment should be restricted to truly serious offences and reduced to a socially acceptable minimum.

59. Some representatives felt that the penitentiary system was in crisis. The conditions prevailing in penitentiary institutions made a mockery of what some regarded as the main goal of imprisonment, namely rehabilitation. In many countries, prisons were human hells marked by overcrowding, idleness, drugs, rape, murder and administrative corruption.

60. Some representatives reported efforts to humanize prisons, undertaken in cooperation with churches and non-governmental organizations. They were aimed at restoring the dignity and self-esteem of inmates. In addition, the transfer of foreign prisoners to their countries of origin had the merit of returning the inmate to a familiar cultural context in which family and community ties facilitated social rehabilitation.

61. Other representatives observed that the creation of a penitentiary ombudsman would be a form of promoting respect for the human rights of inmates. In addition, the separation of juvenile from adult offenders, as recommended by the United Nations, was imperative.

62. Some representatives stated that there was an urgent need to upgrade the training of penitentiary personnel. Moreover, inmates should be provided opportunities for gainful employment and for in-prison training in skills and professions.

63. Many representatives noted, however, that penitentiary reform was too heavy a burden for developing countries, already affected by unfavourable terms of trade and foreign debt. Thus, it appeared indispensable to establish new approaches to international cooperation and assistance. The same was true of reforms and improvements of other components of the criminal justice system. In the opinion of some representatives, it would not be fair to let poor countries carry alone the full weight of reform, in so far as such improvements would be for the benefit of developed and developing countries alike. Thus, developed countries should provide direct assistance or make contributions to the United Nations Crime Prevention and Criminal Justice Fund for that purpose.

64. With respect to the police, some representatives felt that there existed an acute need for training and the improvement of relations with the public at large. The police were only too often perceived as a merely repressive force and not as the protector of community life. This tended to generate hostility towards the police and a gap between it and the public.

65. In the opinion of some, little was known of the functioning of the police, its efficacy, training, status and role in the protection of human rights. That was due to lack of public awareness. Consequently, some representatives proposed that the Institute should start a research project in that area.

66. A number of representatives believed that more autonomy should be granted to prosecutors. Their status should be anchored in the constitution, including their financial autonomy and their discretionary right to prosecute the accused or not, with due regulation.

67. Crime, in the opinion of some representatives, not only did harm to the quality of life and to human principles and values, but also damaged national economies. Both developed and developing countries should act together against it. International cooperation should encourage developed countries to provide complementary funds to those allocated by developing countries to crime prevention and criminal justice. International cooperation in that field should be viewed as an integral part of development assistance.

68. In connection with all the above, the Institute stated that it was ready to provide to requesting States of the region its facilities and its technical know-how for specific cooperation projects in such priority areas as:

(a) Formulation of institutional coordination of strategies in the area of criminal justice;

(b) Institutionalization of training units in the judicial, police and penitentiary subsystems;

(c) Establishment of information systems and networks for documentation, crime statistics, legislation and jurisprudence;

(d) Organization of seminars and other forums on transnational and organized crime prevention, including drugs and the environment;

(e) Participation in diagnostic research and improvement of crime prevention systems, such as reform of legislation, alternatives to imprisonment and penitentiary systems;

(f) Formulation of crime prevention strategies, including violent crimes, the protection of victims and community police.

69. Many representatives emphasized the need for closer cooperation with the Branch, with a view to improving criminal justice and police systems and their management, as well as the necessity to improve communication channels and feedback of information.

70. Observers for non-governmental organizations said that they were ready to contribute to the Ninth Congress. Their organizations were actively involved in many projects and looked forward to sharing their views, not only in ancillary meetings, but also in all other events of the Congress. They also expressed the hope that the shift in focus away from the treatment of offenders did not mean that that area of concern had to be excluded from professional training programmes, in view of the serious need for reforming archaic penal systems in many countries and the need to meet democratic standards for judicial and legal systems in both developed and developing countries.

Topic 4. Crime prevention strategies, in particular as related to crime in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives

71. All representatives agreed on the need to carry out crime prevention policies. The traditional repressive approach had not succeeded in providing a sufficient response to the problem of criminality. In any event, the economic difficulties with which the countries of the region were confronted hampered the development of appropriate policies. Owing to the deterioration of economic conditions in the region, it was feared that States would soon be unable to pursue the efforts which they had been making.

72. It was confirmed that the phenomena of crime were not only complex, but also were caused by a multiplicity of factors both economic and social. Migratory flows from rural to urban areas had greatly increased criminality in the cities. Unrestrained urbanization had stood in the way of any serious urban planning. The cities were not able to meet the needs of newly arrived persons in terms of either employment or social services, with the result that criminality had been generated among youth.

73. The overcrowding on the outskirts of large cities had helped to increase manifestations of violence in which the principal victims were women and children. In the overpopulated districts, inhabited by the dispossessed, private space was very limited and the rights of individuals were trampled on. Violence took many forms: assaults, conjugal brutality, rape, sexual abuse and the like.

74. Many representatives reported on the crime prevention programmes which they were implementing locally, regionally and nationally in their countries in order to tackle those problems. However, national initiatives needed to be adapted to the specific circumstances of each place so as to pinpoint the requirements

of the local people and to involve the community as far as possible in the social rehabilitation of criminals. In that connection, the precedent set by the Argentine Province of Mendoza, where municipal governments were authorized by law No. 5940 to play a role in crime prevention through the Urban Security Councils, was brought to the attention of the Meeting.

75. Some countries had established intersectoral prevention councils which consisted of a plurality of social entities such as education, health and housing services, judicial institutions, organizations that provided relief and support to vulnerable groups and those at risk, trade unions and the private sector, as in the case of chambers of commerce and industry. The role of the communication media in prevention activities, and principally the role of radio and television and of advertising agencies, had also been emphasized.

76. The representative of the Institute reported on its activities in preventing violence against women, referring in particular to a regional project for training judges who would concern themselves with that question. In that context, raising the awareness of justice professionals would enable an institutional response to be made to those social phenomena.

77. Grass-roots actions were also necessary, as occurred in the treatment of street children, who were both perpetrators of criminal acts and victims of, for example, prostitution and ill-treatment. A number of representatives emphasized the need to draw up programmes of aid for those social groups, paying particular attention to abandoned children.

78. It was considered that special efforts must be made to forestall the sale and consumption of drugs, the street children being the first to be adversely affected. Various representatives expressed support for vigorous action to prevent and control drug use and illicit trafficking and their consequences, both in schools and in other public places. However, the creation of special police forces and the use of the army to combat drugs had yielded insignificant results.

79. Mechanisms known as guidance and support modules had been established for the purpose of assisting young violators of criminal laws, and provided forums where young people could express themselves in a framework of analysis and reflection, thereby enabling the emotional conflicts of adolescence to be identified. Those modules were already operating in the capital of one of the countries of the region.

80. A sound family structure was recognized as necessary for the development of an adolescent, as it ensured the transmission of certain values of respect and tolerance necessary to life in society. Awareness of such values was also provided by schools. The role of teaching and education, both formal and non-formal, in prevention was unanimously acknowledged.

81. A number of representatives considered that, for minors, a prerequisite of any preventive action was the need for treatment to reflect the characteristics of minors and to be in keeping with the guidelines on the prevention of juvenile delinquents. The establishment of machinery to aid victims was also a necessary adjustment of the penal justice system. Restitution and compensation machinery and social services to assist victims, especially psychological help, should be developed virtually throughout the region.

82. Several representatives emphasized that poverty and the diversion of funds were the two faces of the same coin. The interlinkage between juvenile crime, urban criminality and the more sophisticated forms of organized crime were clearly in evidence. The resulting global interdependence gave international cooperation a predominant role to play. That cooperation could take various forms, such as the exchange of experience and information and the preparation and implementation of technical assistance programmes, for which the United Nations crime prevention and criminal justice programme offered an appropriate framework. Securing sufficient resources for those activities was, however, essential to the specific and effective action which the States of the region had been seeking.

III. ADOPTION OF THE REPORT OF THE MEETING

83. At its final meeting, after having examined a draft declaration of support for the multilateralization of the Institute, which had been circulated approximately a year earlier to the Governments of the region by the Ministry of Justice of Costa Rica, and amended it as a result of informal consultations between the delegations of Argentina, Chile, Colombia, Costa Rica, Cuba, Uruguay and Venezuela, the Meeting adopted the final text and a draft resolution, the text of which is contained, together with the declaration, at the beginning of the present report. Finally, the Meeting unanimously adopted the draft report introduced by the Rapporteur.

Notes

[1]General Assembly resolution 35/171, annex.

[2]United Nations publication, Sales No. E.91.IV.2, chap.I, sect. C.

[3]General Assembly resolution 45/110, annex.

[4]General Assembly resolution 45/118, annex.

[5]General Assembly resolution 44/25, annex.

[6]General Assembly resolution 40/34, annex.

Annex I

LIST OF PARTICIPANTS

Member States

Argentina

Jorge Luis Maiorano, Ministro de Justicia

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Ramón Miguel Govi, Director, Instituto de Formación de Personal del Servicio Penitenciario Federal

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Bruno Morales Tirado, Subdirector de la Dirección General de Prevención y Tratamiento de Menores, Secretaría de Gobernación

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Francisco Javier Piñanes, Subdirector General de Estudios, Ministerio del Interior

United States of America

Drew C. Arena, Office of International Programs, Office of the Deputy Attorney General, Department of Justice

Uruguay

Raúl Iturria Igarzabal, Ministro del Interior

Miguel Langon Cuñarro, Magistrado, Suprema Corte de Justicia

Venezuela

Gladys Merangel Trujillo de Mellior, Segundo Secretario y Encargado de Asuntos Culturales, Embajada en Costa Rica

Mirna Yepez, Ministerio de Justicia

Elio Gomez Grillo, Ministerio de Justicia

Observers

Holy See

Giacinto Berloco, Nuncio Apostólico en Costa Rica

Jorge Anibal Rojas Bustamante, Nunciatura Apostólica

Fernando Muñoz Mora, Nunciatura Apostólica

Angel Edmundo Solano Calderon, Nunciatura Apostólica

United Nations Secretariat

Department of Public Information, United Nations Office at Vienna

United Nations bodies

United Nations Development Programme, United Nations International Drug Control Programme, United Nations Operation in Somalia (UNOSOM II), University for Peace

Specialized agencies

United Nations Educational, Scientific and Cultural Organization, World Health Organization

Research institutes

Latin American Institute for the Prevention of Crime and the Treatment of Offenders

Intergovernmental organizations represented by observers

Inter-American Children's Institute, International Organization for Migration, Organization of American States

Non-governmental organizations

Category I: International Council for Adult Education, Muslim World League

Category II: Centro Nazionale di Prevenzione e Difesa Sociale, International Committee of the Red Cross, International Society of Social Defence, Latin American Association for Human Rights

Roster: Defence for Children International

Other organizations

Alliance of NGOs in Crime Prevention and Criminal Justice, Commission for the Defense of Human Rights in Central America, Earth Council, Defensoría de los Habitantes de la República (Costa Rica), Fundación PANIAMOR (Costa Rica), Penal Reform International, Universidad Centroamericana (Nicaragua).

Annex II

LIST OF DOCUMENTS

Title or description	Document number
Discussion Guide	A/CONF.169/PM.1
Provisional agenda, with annotations, and proposed schedule of work	A/CONF.169/PM.2
Discussion guide on demonstration and research workshops to be held at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders	A/CONF.169/PM/CRP.1
Report of the Commission on Crime Prevention and Criminal Justice on its Second Session	E/1993/32
Report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders	A/CONF.l44/28/Rev.1
Report of the Ministerial Meeting on the Establishment of an Effective United Nations Crime Prevention and Criminal Justice Programme	A/46/703